

December 18, 1992

This is in response to your correspondence dated October 12, 1992, requesting guidance in several areas of the Research and Special Programs Administration (RSPA) drug testing regulations of Title 49 Code of Federal Regulations Part 199 concerning the applicability of the regulations where one pipeline operator acquires another pipeline operator. The questions and answers are outlined below:

Question: Whether pre-employment testing must be conducted on the covered employees who work for a pipeline operator which is about to be acquired. Your initial assessment is that they are in compliance with our regulations.

Your correspondence indicates that your intention is to immediately assimilate this company and its covered employees into your company drug plan and random testing pool.

Answer: Your company would not be required to conduct pre-employment testing on covered employees from the pipeline operator you are acquiring so long as the current operator is provided with documentation to substantiate that the former operator was in compliance with the recordkeeping requirements of 49 CFR ?199.23. They should be included in your random testing pool and be subject to the random selection process as soon as possible following the acquisition of the pipeline operator.

Question: Do any of the percentages, goals, or numbers used by or applicable to, the acquired company prior to the acquisition, apply after the date of acquisition?

Answer: The percentages, numbers, or goals used by the operator prior to the acquisition could be used when trying to determine if the 50 percent random testing ratio was obtained and could be included in the overall figures for your company.

Question: Should we attempt to obtain all prior drug testing and training records?

Answer: A pipeline operator subject to the drug testing regulations is required to maintain records in accordance with 49 CFR ?199.23. "Attempts to obtain such records from previous owners does not adequately demonstrate compliance with the regulations. A pipeline operator must either have the documentation required by the regulations, or conduct any necessary tests and training to bring the operator into compliance.

Thank you for your inquiry. Please let me know if you need any additional information about our drug testing requirements.

Sincerely,

Richard L. Rippert
Drug Compliance Coordinator
Office of Pipeline Safety
Enforcement